

FILE COPY

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STATE OF WISCONSIN  
BEFORE THE BARBERING AND  
COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :

GAVINO ZAVALA,  
RESPONDENT. :

FINAL DECISION AND ORDER

LS98080314BAC

Division of Enforcement  
97 BAC 031

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Gavino Zavala  
1539 S. 6th St.  
Milwaukee, WI 53204

Barbering and Cosmetology Examining Board  
P.O. Box 8935  
Madison, WI 53708-8935

Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Gavino Zavala (DOB 2-17-80), 1539 S. 6th St., Milwaukee, WI 53204, was issued an apprentice permit to practice barbering and cosmetology in the state of Wisconsin on April 20, 1998 (permit #7679). This permit expires April 20, 2000.
2. Jose Barber Extraordinaire, 831 W. National Ave., Milwaukee, WI 53204 is duly licensed as a barbering and cosmetology establishment in the state of Wisconsin (license #25696).

3. On exact dates unknown, but at least on August 21, 1997, Gavino Zavala was providing barbering and cosmetology services at Jose Barber Extraordinaire. At no time relevant to this action did Mr. Zavala hold a current barbering and cosmetology apprentice permit.

4. In resolution of this matter, Mr. Zavala consents to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

Gavino Zavala, by the conduct referred to in ¶ 3, above, has violated sec. 454.04(1)(a), Stats.

#### ORDER

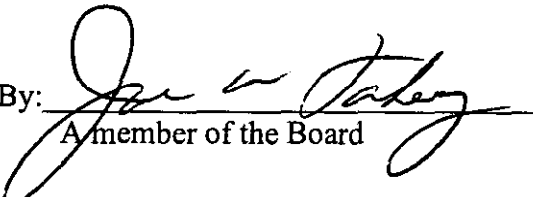
NOW, THEREFORE, **IT IS HEREBY ORDERED** that Gavino Zavala, shall pay to the Department of Regulation and Licensing a forfeiture of ONE HUNDRED dollars (\$100.00). Payment shall be submitted within thirty (30) days from the date of this order. Payment shall be made by *certified check or money order*, payable to the Wisconsin Department of Regulation and Licensing and sent to:


Department Monitor  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935.

**IT IS FURTHER ORDERED** that in the event that Gavino Zavala fails to timely submit payment of the forfeiture as set forth above, the apprentice permit issued to Gavino Zavala (#7679) SHALL BE SUSPENDED, without further notice or hearing, until Mr. Zavala has complied with the terms of this Order.

This Order shall become effective upon the date of its signing.

WISCONSIN BARBERING AND COSMETOLOGY BOARD

By:   
A member of the Board

  
Date

STATE OF WISCONSIN  
BEFORE THE BARBERING AND  
COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

GAVINO ZAVALA,  
RESPONDENT.

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STIPULATION

It is hereby stipulated between Gavino Zavala, personally on his own behalf, and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement (97 BAC 031). Mr. Zavala consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Mr. Zavala understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

3. Mr. Zavala is aware of his right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this stipulation.

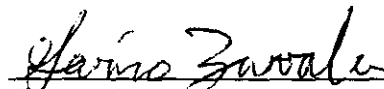
4. Mr. Zavala agrees to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondents waive all rights to any appeal of the attached order, if adopted in the form as attached.

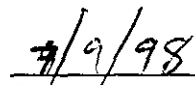
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

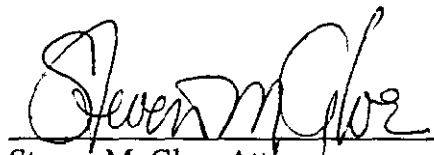
6. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Barbering and Cosmetology Examining Board assigned as an advisor in

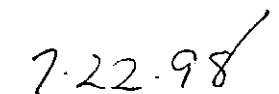
6. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Barbering and Cosmetology Examining Board assigned as an advisor in this investigation may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the Board may have in connection with their deliberations on the stipulation.

7. The Division of Enforcement joins Mr. Zavala in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
Gavino Zavala

  
Date

  
Steven M. Gloe, Attorney  
Division of Enforcement

  
Date

# Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech  
TRS# 1-800-947-3529, impaired only

## GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On August 3, 1998, the Barbering and Cosmetology Examining Board  
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a  
forfeiture.

The amount of the costs assessed is: \_\_\_\_\_ Case #: \_\_\_\_\_

The amount of the forfeiture is: \$100.00 Case # LS98080314BAC

Please submit a check or a money order in the amount of \$100.00

The costs and/or forfeitures are due: September 2, 1998

NAME: Gavino Zavala LICENSE NUMBER: 53204

STREET ADDRESS: 1539 South 6th Street

CITY: Milwaukee STATE: WI ZIP CODE: 53204

Check whether the payment is for costs or for a forfeiture or both:

       COSTS   X   FORFEITURE

Check whether the payment is for an individual license or an establishment license:

  X   INDIVIDUAL        ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

**DEPARTMENT OF REGULATION AND LICENSING**  
**1400 E. WASHINGTON AVE., ROOM 141**  
**P.O. BOX 8935**  
**MADISON, WI 53708-8935**

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

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**For Receipting Use Only**

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STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING  
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Gavino Zavala,

AFFIDAVIT OF MAILING

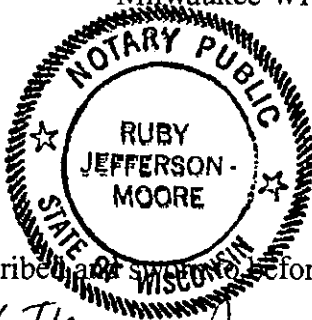
Respondent.

STATE OF WISCONSIN    )  
                                  )  
COUNTY OF DANE        )

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On August 5, 1998, I served the Final Decision and Order dated August 3, 1998, and Guidelines for Payment of Costs and/or Forfeitures, LS98080314BAC, upon the Respondent Gavino Zavala by enclosing true and accurate copies of the above-described documents in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is Z 233 819 669.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Gavino Zavala  
1539 S. 6th Street  
Milwaukee WI 53204



Subscribed and sworn before me

this 6th day of August, 1998.

Ruby Jefferson-Moore  
Notary Public, State of Wisconsin  
My commission is permanent.

Kate Rotenberg  
Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

## NOTICE OF RIGHTS OF APPEAL

TO: GAVINO ZAVALA

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 8/5/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

### A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

### B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

### SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD  
1400 East Washington Avenue  
P.O. Box 8935  
Madison WI 53708-8935